

Supreme Court, U.S.

FILED

FEB 16 1994

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

(48)

No. 92-1384

---

BARCLAYS BANK PLC,  
Petitioner,

v.

FRANCHISE TAX BOARD,  
An Agency Of The State Of California,  
Respondent.

(61)

---

No. 92-1839

---

COLGATE-PALMOLIVE COMPANY,  
Petitioner,

v.

FRANCHISE TAX BOARD,  
An Agency Of The State Of California,  
Respondent.

---

On Writ of Certiorari To The  
Court Of Appeal Of The State Of California  
In And For The Third Appellate District

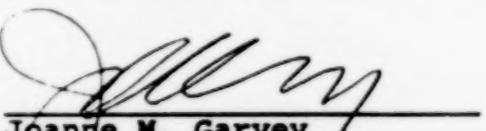
SUPPLEMENTAL BRIEF OF  
PETITIONERS' IN OPPOSITION TO CALIFORNIA LEGISLATURE'S  
MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

5 pp

On February 16, 1993 Petitioner Barclays Bank PLC ("Barclays") received a copy of a letter from the Chairman of the Joint Committee on Rules dated December 20, 1993 purportedly authorizing the Legislative Counsel to file a brief in these cases on behalf of the California Legislature.<sup>1/</sup> Appendix A. However, the Chairman of the Joint Rules Committee may not act on behalf of the committee without the authorization by two thirds of the committee membership at an open and public meeting. Cal. Gov't Code §§ 9027, 9028, 9917 (West 1992). No evidence of such authorization was produced. The type of authorization specifically required under Section 10246 of the California Government Code is not before this Court. Thus, there is still no basis for this Court to conclude that the brief filed with movant's motion is an authorized representation of the views of the California Legislature.

Barclays and Colgate-Palmolive Company ("Colgate") hereby renew their opposition to the California Legislature's Motion for Leave to File Brief Amicus Curiae.

Respectfully submitted,



Joanne M. Garvey  
Counsel of Record for  
Barclays Bank PLC  
HELLER, EHRLMAN, WHITE & MCAULIFFE  
333 Bush Street  
San Francisco, CA 94104-2878  
(415) 772-6000



James P. Kleier  
Counsel of Record for  
Colgate-Palmolive Company  
MORRISON & FOERSTER  
345 California Street  
San Francisco, CA 94104  
(415) 677-7000

<sup>1/</sup> There are no changes to the Rule 29.1 Statements in the above referenced consolidated case since the Briefs of the Petitioners were filed with this Court.

## APPENDIX A

A-1

# Legislative Counsel of California

BION M. GREGORY

Jack I. Horton  
Chief Deputy  
James L. Asford  
Harvey J. Foster  
John T. Studebaker  
Daniel A. Wettemann  
David D. Ahres  
John A. Corzine  
C. David Dickerson  
Robert Cullen Duffy  
Robert D. Granka  
James A. Mansfield  
Robert G. Miller  
Verna L. Oliver  
Tracy O. Powell II  
Marguerite Roth  
Michael H. Upson  
Christopher Zirkle  
Principal Deputies

State Capitol, Suite 3021  
Sacramento, CA 95814-4996  
(916) 445-3057  
Telescopier (916) 322-0769

Sacramento, California  
February 15, 1994

Heller, Ehrman, White & McAuliffe  
Attorneys  
333 Bush Street  
San Francisco, CA 94104-2878

Attention: Joanne M. Garvey

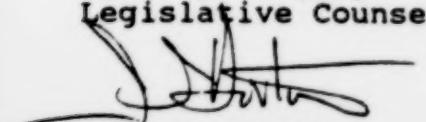
Barclays Bank PLC v. Franchise Tax Board;  
Colgate-Palmolive v. Franchise Tax Board

Dear Ms. Garvey:

Pursuant to the request in your letter dated February 11, 1994, to Mr. Heir, we have enclosed a copy of the letter memorializing the authorization of the Joint Committee on Rules for this office to represent the Legislature, as *amicus curiae*, in the above-referenced cases.

Very truly yours,

Bion M. Gregory  
Legislative Counsel

  
Jack I. Horton  
Chief Deputy

JIH:bjs  
Enclosure

Gerald Ross Adams  
Martin L. Anderson  
Paul Antala  
Charles C. Asbill  
Joe J. Ayala  
Raneeha P. Bensie  
Lara K. Berman  
Diane F. Boyer-Vine  
Ann M. Buzastro  
Eileen J. Burton  
Geynna L. Byrd  
Sarajane Cuthbertson  
Emilia Cutrer  
Ben E. Doss  
Jeffrey A. Doland  
Clinton J. deWitt  
Frances S. Dobrin  
Maureen S. Dunn  
Sharon R. Fisher  
Clay Fuller  
Patricia R. Gates  
Debra Zeich Gibbons  
Shira K. Gilbert  
Alvin D. Gross  
Maria Hilasca Hanke  
Jana T. Harrington  
Beidov S. Heir  
Thomas R. Heuer  
Ruben L. Iniguez  
Lor Ann Joseph  
David B. Judson  
Michael R. Kany

Michael J. Kansen  
L. Douglas Kinney  
Eve B. Kretzinger  
Audrey LaBine  
Felicia A. Lee  
Victoria K. Lewis  
Diana G. Lim  
Jennifer Loomis  
Romualdo Lopez  
Kirk S. Lowe  
Manuela Mann  
Francisco A. Martin  
Sally B. McGough  
Peter Mennicke  
Michael M. Menesh  
John A. Moger  
Aber Mundz  
Donna L. Nevile  
Sharon Reilly  
Michael B. Seemo  
Keith T. Schulz  
William K. Stark  
Jessica L. Steele  
Elen Steward  
Mark Franklin Terry  
Jeff Thom  
Richard Thompson  
Elizabeth M. Wan  
Richard B. Westberg  
Thomas D. Whelan  
Jack G. Zorman

Deputies

ASSEMBLY MEMBERS  
DEDE ALPERT  
WILLIE L. BROWN, JR.  
JAMES BRULTE  
JOHN BURTON  
THOMAS HANNIGAN  
TRICE HARVEY  
ROSS JOHNSON  
BARBARA LEE  
RICHARD MOUNTJOY  
WILLARD MURRAY  
PATRICK NOLAN  
RICHARD POLANCO

**California Legislature**  
**Joint Committee on Rules**  
**JOHN BURTON**  
CHAIRMAN  
**WILLIAM A. CRAVEN**  
VICE CHAIR

SENATE MEMBERS  
RUBEN AYALA  
ROBERT BEVERLY  
WILLIAM CRAVEN  
RALPH DILLS  
LEROY GREENE  
HENRY MELLO  
NICHOLAS PETRIS  
DAVID ROBERTI  
NEWTON RUSSELL  
DON ROGERS  
CATHERINE WRIGHT  
VACANCY

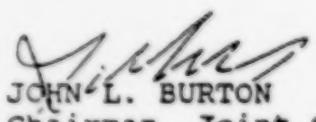
Sacramento, California  
December 20, 1993

Mr. Bion M. Gregory  
Legislative Counsel  
State Capitol, Suite 3021  
Sacramento, California 95814-4996

Dear Mr. Gregory:

Pursuant to Section 10246 of the Government Code, your office is hereby authorized to represent the Legislature, as *amicus curiae*, in the cases of Barclays Bank PLC v. Franchise Tax Board of California (No. 92-1384) and Colgate-Palmolive Co. v. Franchise Tax Board of California (No. 92-1839) before the United States Supreme Court. The purpose of this representation will be to advise the Court of the development of California's unitary tax law in response to communications from the federal government and the United Kingdom.

Sincerely,

  
JOHN L. BURTON  
Chairman, Joint Committee on Rules

cc:

Honorable Willie L. Brown, Jr.,  
Speaker of the Assembly  
Honorable David Roberti,  
President pro Tempore of the Senate  
Honorable James L. Brulte  
Honorable Ken Maddy

COMMITTEE OFFICE  
ROOM 3016 - STATE CAPITOL  
TELEPHONE 445-2995

BOB CONNELLY  
CHIEF ADMINISTRATIVE OFFICER  
KAYE PACKARD  
COMMITTEE SECRETARY